

**NO. 12-12-00032-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***GARY WAYNE BOBBITT,  
APPELLANT***

§

***APPEAL FROM THE 114TH***

***V.***

§

***JUDICIAL DISTRICT COURT***

***THE STATE OF TEXAS,  
APPELLEE***

§

***SMITH COUNTY, TEXAS***

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***MEMORANDUM OPINION  
PER CURIAM***

This appeal is being dismissed for want of jurisdiction. Following a guilty plea, Appellant was convicted of felony driving while intoxicated and was sentenced to imprisonment for twenty-five years.

Texas Rule of Appellate Procedure 26.2 provides that an appeal is perfected when notice of appeal is filed within thirty days after sentence is imposed in open court. TEX. R. APP. P. 26.2(a)(1). When a motion for new trial is filed, the notice of appeal must be filed within ninety days after sentence is imposed in open court. TEX. R. APP. P. 26.2(a)(2). Sentence was imposed in open court on April 19, 2011, and Appellant did not file a motion for new trial. Therefore, Appellant's notice of appeal was due to have been filed on or before May 19, 2011. However, Appellant did not file his notice of appeal until January 9, 2012, and did not file a motion for extension of time to file his notice of appeal as permitted by Texas Rule of Appellate Procedure 26.3. See TEX. R. APP. P. 26.3 (appellate court may extend time for filing notice of appeal if, within fifteen days after deadline for filing notice of appeal, appellant files notice of appeal in trial court and motion complying with Texas Rule of Appellate Procedure 10.5(b) in appellate court).

On January 18, 2012, this court notified Appellant that his notice of appeal was untimely

and that there was no timely motion for an extension of time to file the notice of appeal as permitted by Rule 26.3. Appellant was further informed that the appeal would be dismissed unless, on or before January 30, 2012, the information filed in this appeal was amended to show the jurisdiction of this court. The deadline has passed, and Appellant has neither shown the jurisdiction of this court nor otherwise responded to its January 18, 2012 notice.

Because this court has no authority to allow the late filing of a notice of appeal except as provided by Rule 26.3, the appeal must be dismissed. See *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Accordingly, the appeal is *dismissed for want of jurisdiction*.

Opinion delivered February 8, 2012.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)



**COURT OF APPEALS  
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS  
JUDGMENT**

**FEBRUARY 8, 2012**

**NO. 12-12-00032-CR**

**GARY WAYNE BOBBITT,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeal from the 114th Judicial District Court  
of Smith County, Texas. (Tr.Ct.No. 114-1798-10)

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THIS CAUSE came to be heard on the appellate record filed herein; and the same being considered, it is the opinion of this court that this court is without jurisdiction of the appeal, and that the appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*